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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,235	10/22/2001	Chandrashekhar Pathak	SBI-082	4921
7:	590 02/27/2003			
SULZER MEDICA USA INC.			EXAMINER	
Suite 1600 3 East Greenwa	y Plaza		AZPURU, CARLOS A	
Houston, TX 77046		•	ART UNIT	PAPER NUMBER
			1615	1
			DATE MAILED: 02/27/2003	9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/991,235

Applicant(s)

Pathak et al

Examiner

Carlos Azpuru

Art Unit 1615



	The MAILING DATE of this communication appears of	on the cover sheet wi	th the correspondence address		
	or Reply				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. • Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the					
mailing date of this communication.					
- If NO p - Failure - Any rej	period for reply specified above is less than thirty (30) days, a reply within the period for reply is specified above, the maximum statutory period will apply and to reply within the set or extended period for reply will, by statute, cause the ply received by the Office later than three months after the mailing date of the patent term adjustment. See 37 CFR 1.704(b).	nd will expire SIX (6) MONTH e application to become ABA	IS from the mailing date of this communication. NDONED (35 U.S.C. § 133).		
Status					
1) 🗆	Responsive to communication(s) filed on		·		
2a) 🗌	This action is FINAL . 2b) 💢 This action	on is non-final.			
3) 🗆	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.				
Disposit	tion of Claims				
4) 💢	Claim(s) <u>1-41</u>		is/are pending in the application.		
4	a) Of the above, claim(s)		is/are withdrawn from consideration.		
5) 🗆	Claim(s)		is/are allowed.		
6) 🗆	Claim(s)		is/are rejected.		
7) 🗌	Claim(s)		is/are objected to.		
8) 💢	Claims <u>1-41</u>	are subje	ect to restriction and/or election requirement.		
Applica	tion Papers				
9) 🗌	The specification is objected to by the Examiner.				
10) 🗌	The drawing(s) filed on is/are	a) accepted or	b) \square objected to by the Examiner.		
	Applicant may not request that any objection to the d	rawing(s) be held in a	beyance. See 37 CFR 1.85(a).		
11)	The proposed drawing correction filed on	is: a)□	approved b) \square disapproved by the Examiner.		
If approved, corrected drawings are required in reply to this Office action.					
12) The oath or declaration is objected to by the Examiner.					
Priority under 35 U.S.C. §§ 119 and 120					
13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).					
a) 🗆	☐ All b)☐ Some* c)☐ None of:				
	1. \square Certified copies of the priority documents have	e been received.			
	2. \square Certified copies of the priority documents have	e been received in A	application No		
;	3. Copies of the certified copies of the priority do application from the International Burea				
*Se	ee the attached detailed Office action for a list of the	e certified copies no	t received.		
14)	Acknowledgement is made of a claim for domestic	priority under 35 U.	S.C. § 119(e).		
a) The translation of the foreign language provisional application has been received.					
15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.					
Attachment(s)					
_	tice of References Cited (PTO-892)		PTO-413) Paper No(s). 8		
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)					
3) ∐ Inf	ormation Disclosure Statement(s) (PTO-1449) Paper No(s).	6) Other:			

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Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-23, drawn to a coated stent, classified in class 424, subclass 423+.
- II. Claims 24-40, drawn to a method of coating, classified in class 427, subclass 1+.
- III. Claim 41, drawn to a method of treating restenosis, classified in class 623, subclass 1+.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the process as claimed can be used to make another and materially different product such as a microcapsule.

Inventions Group I and Group III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the process for using the product as claimed can be practiced with another materially different product such as a balloon catheter.

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Inventions Group II and Group III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-III, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

A telephone call was made to Timothy L. Scott on 01/15/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos A. Azpuru whose telephone number is 703/308-0237. The examiner can normally be reached on Tu-Fri, 6:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone

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numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

ca

February 26, 2003

PRIMARY EXAMINER

GROUP 1500